

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

DILYARA M. CANNON,
Plaintiff,

v.

ARON ROGERS; et al.,
Defendants.

2:10-CV-0909-LRH-RJJ

ORDER

Before the court is defendants Sandhya Wahl-Gururaj and Aron Rogers' (collectively "defendants") motion to dismiss plaintiff Dilyara M. Cannon's ("Cannon") amended complaint. Doc. #28.¹

On June 14, 2010, Cannon filed a complaint against defendants in their official capacity asserting a violation for civil racketeering. Doc. #1. Moving defendants filed an initial motion to dismiss. Doc. #8. After defendants filed their initial motion, Cannon filed an amended complaint against defendants which withdrew the initial complaint's official capacity claims, instead alleging individual capacity claims against defendants for fraud and civil racketeering. *See* Doc. #16. Thereafter, defendants filed the present motion to dismiss incorporating in its entirety their initial motion to dismiss. *See* Doc. #28.

¹ Refers to the court's docketing number.

1 The court has reviewed the documents and pleadings on file in this matter and finds that
2 the incorporation of the initial motion to dismiss fails to address the new allegations in the
3 amended complaint. In particular, the initial motion contains arguments concerning the issue of
4 sovereign immunity relating to the original complaint's official capacity claims as well as the issue
5 of improper venue due to a binding arbitration clause involving the defendants' employer, the
6 Nevada System of Higher Education ("NSHE"), which are not alleged in the amended complaint.
7 The defendants' contention that the allegations in the amended complaint are so identical to those
8 in the initial complaint as to warrant incorporation of their initial motion to dismiss is incorrect.
9 Therefore, the court shall deny defendants' motion to dismiss without prejudice and grant the
10 defendants an opportunity to respond to the new allegations and claims in the amended complaint.

11
12 IT IS THEREFORE ORDERED that defendants' motion to dismiss (Doc. #28) is DENIED
13 without prejudice. Defendants Sandhya Wahl-Gururaj and Aron Rogers shall have ten days from
14 entry of this order to file a renewed motion to dismiss.

15 IT IS SO ORDERED.

16 DATED this 15th day of January, 2011.



LARRY R. HICKS
UNITED STATES DISTRICT JUDGE